

Hobson v.
Hewlett
(Allen)

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

JULIUS W. HOBSON, et. al

Plaintiffs

v.

Civil Action No. 2813-67

EVERETT HEWLETT, et al

Defendants

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TEMPORARY RESTRAINING ORDER

This cause came on to be heard on the Plaintiffs' Motion for a Temporary Restraining Order predicated on Plaintiff's affidavit, memorandum of law, the pleadings, and the files and records in this case and it appearing to the satisfaction of the Court that the defendant Anita Allen is an incumbent member of the District of Columbia Board of Education, and a candidate for election to said Board, and it further appearing that there is substantial doubt concerning the legal eligibility of said defendant to serve on said Board because of a conflict of interest with her position as an official in the Office of the United States Commissioner of Education, and that the aforesaid acts of the defendant Allen would cause irreparable injury to the rights of the Plaintiff before notice can be served and a hearing had on the Plaintiff's motion for a preliminary injunction unless said defendant is restrained, it is this _____ day of October, 1968

ORDERED, that the defendant Anita Allen is restrained from further participating as a member of the District of Columbia Board of Education, and a

of Education, and said defendant and all persons in active participation and concert with her be, and they are hereby restrained from further campaigning for election to the District of Columbia Board of Education; PROVIDED HOWEVER, that the Plaintiffs first give security in the sum of _____ (\$) dollars, cash to be deposited with the Clerk of Court for payment of such costs and damages as may be incurred by any party; or surety in a like amount to be approved by the Court of by the Clerk of the Court, and it is further

ORDERED, that this order expires within _____ days after entry, unless within such time the order, for good cause shown, is extended for a like period unless the defendants consent that it may be extended for a longer period, and it is further

ORDERED, that the plaintiffs' motion for a preliminary injunction be set down for hearing on the _____ day of October, 1968, at 10:00 a.m., or as soon thereafter as counsel may be heard.

BY THE COURT

JUDGE

Issued at _____, _____ a.m.,
October, 1968.

of Education, and said defendant and all persons in active participation
and consent with her be, and they are hereby restrained from further
campaigning for election to the Board of Columbia Board of Education;
PROVIDED HOWEVER, that the Plaintiff first give security in the sum

of _____ (\$) dollars,
each to be deposited with the Clerk of Court for payment of such costs
and damages as may be incurred by any party; or twenty in a like
amount to be approved by the Court or by the Clerk of the Court,
and it is further

ORDERED, that this order expires within _____ days after entry,
unless within such time the order, for good cause shown, is extended
for a like period unless the defendant consent that it may be
extended for a longer period, and it is further
ORDERED, that the Plaintiff's motion for a preliminary injunction
be set down for hearing on the _____ day of October, 1968, at
10:00 a.m., or as soon thereafter as counsel may be heard.

BY THE COURT

JUDGE

Issued at _____
October, 1968.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

JULIUS W. HOBSON, et. al

Plaintiffs

vs.

EVERETT HEWLETT, et al

Defendants

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Civil Action No. 2813-67

PLAINTIFFS' MEMORANDUM IN SUPPORT OF MOTIONS FOR
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

The Defendant Anita Allen is Illegally on the Board of Education.

The defendant Allen is a member of the District of Columbia Board of Education and also an administrative officer in the office of the United States Commissioner of Education.

The District of Columbia Board of Education has control of all public schools in the District of Columbia, D.C. Code § 31-101 (1967). Said Board has submitted applications and plans to the Office of the United States Commissioner of Education to receive funds to implement educational programs in the District of Columbia. (Official Transcripts and Minutes of Meetings of the Board of Education; Ninth Stated Meeting, Sept. 18, 1968; Sixth Special Meeting, July 30, 1968; Fourth Special Meeting, July 16, 1968)

The Office of the United States Commissioner of Education is charged by law, 20 U.S.C. §§ 821-836, with the duty of supervising and administering federal grants to the District of Columbia designed to implement educational programs under Title I of the Elementary and Secondary Education Act of 1965. By law the Office of the United States Commissioner of Education must approve plans submitted by the District of Columbia to receive funds under the Act, 20 U.S.C. §§ 823,844; verify reports from the District of Columbia concerning the

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Civil Action No. 3813-67

JULIUS W. ROSENBERG, et al.

Plaintiffs

vs.

EDWARD BRENNAN, et al.

Defendants

PLAINTIFFS' MEMORANDUM IN SUPPORT OF MOTION FOR
TEMPORARY RESTRAINING ORDER AND PERMANENT INJUNCTION

The defendant Allen is illegally on the Board of Education.

The defendant Allen is a member of the Board of Education of the District of Columbia and also an administrative officer in the office of the United States Commissioner of Education. The Board of Education of the District of Columbia has control of all public schools in the District of Columbia, D.C. Code § 31-501 (1967). This Board has submitted applications and plans to the Office of the United States Commissioner of Education to receive funds to implement educational programs in the District of Columbia. (Official Transcripts and Minutes of Meetings of the Board of Education; Ninth Special Meeting, Sept. 18, 1968; Sixth Special Meeting, July 30, 1968; Fourth Special Meeting, July 16, 1968)

The Office of the United States Commissioner of Education is charged by law, 20 U.S.C. §§ 891-906, with the duty of supervising and administering federal grants to the District of Columbia to carry out educational programs under Title I of the Elementary and Secondary Education Act of 1965. By law the Office of the United States Commissioner of Education must approve plans submitted by the District of Columbia to receive funds under the Act, 20 U.S.C. §§ 893, 894; verify reports from the District of Columbia concerning the

use of such funds, 20 U.S.C. § 8, 8322, 844, and has the power to deny federal funds to the District of Columbia upon a finding that plans submitted do not comply with federal law, 20 U.S.C. §§ 826, 868.

The defendant Allen has abstained from voting on questions before the D.C. Board of Education concerning the expenditure of federal funds in the District of Columbia under Title I of the Elementary and Secondary Education Act of 1965 because of the conflict of interest between her official positions.

It is submitted that the defendant Allen is prohibited from being a member of the District of Columbia Board of Education and an officer in the Office of the United States Commissioner of Education because both offices are by their nature incompatible. A public officer is prohibited from holding two incompatible offices at the same time. Byrd v. State, ex rel Atty. Gen., 240 Ark. 743, 402 S.W. 2d 121 (1966); State v. White, 133 N.W. 2d 903 (Ohio, 1965); Adams v. Commonwealth, 268 S.W. 2d 930 (Ky. 1954); De Feo v. Smith, 10 A. 2d 553 (N.J. 1955); McDonough v. Roach, 171 A.2d 307 (N.J. 1961); Commonwealth v. Miller, 272 S.W. 2d 468 (Ky. 1954).

One of the most well established test of incompatibility of offices is the principle that incompatibility is recognized whenever one office is subordinate to the other in some of its important and principal duties, and subject in some degree to its revisory power. Byrd v. State, supra; White v. State, supra.

It seems reasonably clear that the District of Columbia Board of Education is subject to the revisory powers of the office of the United States Commissioner of Education in performance of one of its most important functions, the allocation and expenditure of hundreds of thousands of dollars of federal funds in the District of Columbia to implement educational programs under the Elementary and Secondary Education Act of 1965. The conflict of interest between the defendant Allen's position as a member of the Board of Education and her position

use of such funds, 20 U.S.C. § 8, 8332, 834, and has the power to deny federal funds to the District of Columbia upon a finding that plans submitted do not comply with federal law, 20 U.S.C. §§ 832, 833.

The defendant Allen has abstained from voting on questions before the D.C. Board of Education concerning the expenditure of federal

funds in the District of Columbia under Title I of the Elementary and Secondary Education Act of 1965 because of the conflict of interest

between her official position. It is submitted that the defendant Allen is prohibited from being

a member of the District of Columbia Board of Education and an officer in the Office of the United States Commissioner of Education because

both offices are by their nature incompatible. A public officer is prohibited from holding two incompatible offices at the same time.

Ex parte Allen, 240 Ark. 743, 402 S.W. 2d 1121 (1966); State v. White, 133 N.W. 2d 903 (Ohio, 1965); Adams v. Commonwealth, 268 S.W. 2d 930 (Ky. 1954); In re Adams, 22 S.W. 2d 523 (N.J. 1952);

McDonough v. Beach, 171 A.2d 307 (N.J. 1961); Commonwealth v. Miller, 272 S.W. 2d 463 (Ky. 1954).

One of the most well established tests of incompatibility of offices is the principle that incompatibility is recognized whenever one office

is subordinate to the other in some of its important and principal duties, and subject in some degree to its supervisory power. Ex parte Allen, supra;

White v. State, supra. It seems reasonably clear that the District of Columbia Board of

Education is subject to the supervisory powers of the Office of the United States Commissioner of Education in performance of one of its most

important functions, the allocation and expenditure of hundreds of thousands of dollars of federal funds in the District of Columbia

to implement educational programs under the Elementary and Secondary Education Act of 1965. The conflict of interest between the defendant

Allen's position as a member of the Board of Education and her position

as an official of the Office of the United States Commissioner of Education is apparant. One office in which she is an official has to pass upon the merits of applications and plans submitted by another public body of which she is an official. This is clearly a real conflict in interest. McDonough v. Roach, supra, The defendant Allen has sought to resolve the conflict by refusing to vote on Title I questions before the Board of Education. Such a procedure has been held expressly to be illegal. State v. White, Supra.

Respectfully submitted,

Richard J. Hopkins
1100 Sixth Street, N.W.
Washington, D.C.
No 7-7188
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was mailed, postage prepaid, this 7 day of October, 1968, to the Corporation Counsel, D.C.
14 & E Street, N.W., Washington, D.C.

Richard J. Hopkins

as an official of the Office of the United States Commissioner of
Education is apparent. One office in which she is an official has to
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public body of which she is an official. This is clearly a real conflict
in interest. McDonough v. Borch, supra. The defendant Allen has
sought to remove the conflict by refusing to vote on Title I questions
before the Board of Education. Such a procedure has been held expressly
to be illegal. State v. White, supra.

Respectfully submitted,

Richard J. Hopkins
1100 Sixth Street, N.W.
Washington, D.C.
No 7-7188
Attorney for Plaintiff

CERTIFICATE OF SERVICE
I hereby certify that a copy of the foregoing was mailed postage
prepaid, this 7 day of October, 1968, to the Corporation Counsel, D.C.
14 6 N Street, N.W., Washington, D.C.

Richard J. Hopkins

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

JULIUS W. HOBSON, et. al

Plaintiffs

v.

EVERETT HEWLETT, et al

Defendants

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Civil Action No. 2813-67

AFFIDAVIT IN SUPPORT OF MOTION FOR TEMPORARY
RESTRAINING ORDER AND PRELIMINARY
INJUNCTION

DISTRICT OF COLUMBIA, ss:

Julius W. Hobson, being duly sworn deposes and says:

1. That he is the plaintiff in the above-entitled action.
2. That he is a citizen of the United States, a resident of the District of Columbia, and a tax payer and registered voter in the District of Columbia.
3. That he is an active, announced and duly qualified candidate for election to the District of Columbia Board of Education, and will appear on the ballot in the November, 1968 elections.
4. That the defendant Anita Allen is an incumbent member of the District of Columbia Board of Education, and is an active, announced candidate for election to said Board of Education.
5. That the defendant Allen is legally ineligible to serve on said Board of Education because of a conflict of interest with her position as an official in the office of the United States Commissioner of Education, as more fully appears in plaintiff's memorandum of law filed herein.
6. That the public interest will be served by a speedy resolution of the issue of the defendant Allen's legal capacity to serve on said Board of

Education since official acts of said Board may be invalidated by having a legally ineligible member thereon.

7. That unless said defendant is enjoined and restrained from further campaigning in said election plaintiff will suffer irreparable injury to his rights as a candidate in said election by having to campaign against a legally ineligible candidate.

8. That unless said defendant is enjoined and restrained from further campaigning in said election plaintiff will suffer irreparable injury to his rights as a tax payer and voter of the District of Columbia to have the District of Columbia Board of Education composed of legally qualified members only.

JULIUS W. HOBSON

Subscribed to and sworn to before me this ____ day of October, 1968.

NOTARY PUBLIC, D. C.

Richard J. Hopkins
1100 Sixth Street, N. W.
Washington, D. C.
Attorney for Plaintiff

Plaintiff prays that the Court will grant him such relief as it may deem proper.

Very respectfully,
[Signature]

Y. That unless said defendant is enjoined and restrained from further campaigning in said election plaintiff will suffer irreparable injury to his rights as a candidate in said election by having to campaign against a legally ineligible candidate.

3. That unless said defendant is enjoined and restrained from further campaigning in said election plaintiff will suffer irreparable injury to his rights as a tax payer and voter of the District of Columbia to have the District of Columbia Board of Election composed of legally qualified members only.

WITNESSETH

Subscribed to and sworn to before me this ___ day of October, 1906.

Notary Public for D.C.

Witness my hand and seal this ___ day of October, 1906.
[Signature]
Notary Public for D.C.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

JULIUS W. HOBSON, et al

Plaintiffs

vs.

EVERETT HENLETT, et al

Defendants

Civil Action No. 2813-67

MOTION FOR PRELIMINARY INJUNCTION

Comes now the plaintiffs herein by and through their undersigned attorney to move that the court issue a preliminary injunction restraining the defendant Allen from further participating as a member of the District of Columbia Board of Education, and restraining said defendant and all persons in active participation and concert with her, from further campaigning for election to the District of Columbia Board of Education in the November, 1968 election.

This motion is based on the instant motion, the memorandum of law filed herein, plaintiff's affidavit, the record and files in this case, and any and all other matters which may be presented prior to or at the time of the hearing of said motion.

WHEREFORE, plaintiff pray that the court issue a preliminary injunction restraining the defendant from further participating as a member of the District of Columbia Board of Education, and restraining said defendant from further campaigning for election to the District of Columbia Board of Education in the November, 1968 election.

Respectfully submitted

Richard J. Hopkins
1100 Sixth Street, N. W.
Washington, D. C.
No7-7188
Attorney for Defendants

THE UNITED STATES OF AMERICA

WILLIAM H. HARRIS

WILLIAM H. HARRIS

WILLIAM H. HARRIS

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing motion was mailed, postage prepaid, this ____ day of October, 1968 to Matthew J. Mullaney, Esquire, Assistant Corporation Counsel, D. C. Attorney for Defendants, District Building 144 E. Street, N. W., Washington, D. C.

RICHARD J. HOPKINS

CHAPTER 10

The first part of the chapter is devoted to the study of the properties of the function $f(x) = \sin x$. The second part is devoted to the study of the function $f(x) = \cos x$. The third part is devoted to the study of the function $f(x) = \tan x$. The fourth part is devoted to the study of the function $f(x) = \cot x$. The fifth part is devoted to the study of the function $f(x) = \sec x$. The sixth part is devoted to the study of the function $f(x) = \csc x$. The seventh part is devoted to the study of the function $f(x) = \arcsin x$. The eighth part is devoted to the study of the function $f(x) = \arccos x$. The ninth part is devoted to the study of the function $f(x) = \arctan x$. The tenth part is devoted to the study of the function $f(x) = \operatorname{arccot} x$. The eleventh part is devoted to the study of the function $f(x) = \operatorname{arcsec} x$. The twelfth part is devoted to the study of the function $f(x) = \operatorname{arccsc} x$. The thirteenth part is devoted to the study of the function $f(x) = \operatorname{arcsin} x + \arccos x$. The fourteenth part is devoted to the study of the function $f(x) = \arctan x + \operatorname{arccot} x$. The fifteenth part is devoted to the study of the function $f(x) = \operatorname{arcsec} x + \operatorname{arccsc} x$. The sixteenth part is devoted to the study of the function $f(x) = \arcsin x + \arccos x + \arctan x + \operatorname{arccot} x$. The seventeenth part is devoted to the study of the function $f(x) = \operatorname{arcsec} x + \operatorname{arccsc} x + \arctan x + \operatorname{arccot} x$. The eighteenth part is devoted to the study of the function $f(x) = \arcsin x + \arccos x + \arctan x + \operatorname{arccot} x + \operatorname{arcsec} x + \operatorname{arccsc} x$. The nineteenth part is devoted to the study of the function $f(x) = \arcsin x + \arccos x + \arctan x + \operatorname{arccot} x + \operatorname{arcsec} x + \operatorname{arccsc} x + \operatorname{arcsin} x + \arccos x + \arctan x + \operatorname{arccot} x + \operatorname{arcsec} x + \operatorname{arccsc} x$. The twentieth part is devoted to the study of the function $f(x) = \arcsin x + \arccos x + \arctan x + \operatorname{arccot} x + \operatorname{arcsec} x + \operatorname{arccsc} x + \operatorname{arcsin} x + \arccos x + \arctan x + \operatorname{arccot} x + \operatorname{arcsec} x + \operatorname{arccsc} x + \operatorname{arcsin} x + \arccos x + \arctan x + \operatorname{arccot} x + \operatorname{arcsec} x + \operatorname{arccsc} x$.

CHAPTER 10

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

JULIUS W. HOBSON, residing at 300 M St. SW;
WILLIE J. HARDY, residing at 5046 Benning Rd. S.E.;
PATRICIA SALTONSTALL, residing at 4351 Klinge St. N.W.;
JOHN M. THORNTON, residing at 1736 Allison St. N.E.;
ILIA LEE BULLOCK, residing at 1005 Kenyon St. N.W.;
DONALD GREEN, residing at 1061 31st St. N.W.;

Plaintiffs

v.

CA No. 2813-67

EVERETT HEWLETT, ANITA ALLEN, JOHN SESSIONS,
ALBERT ROSENFELD, JULIAN DUGAS, CARL SMUCK,
ANN STULTS, AND BENJAMIN ALEXANDER, all members
of the Board of Education of the District of
Columbia with offices at Franklin Building,
13th and K Streets N.W., Washington, D.C.;
THE BOARD OF EDUCATION OF THE DISTRICT OF
COLUMBIA, with office at the same address;
WILLIAM MANNING, with temporary office at the
same address; Hon. EDWARD M. CURRAN, ALEXANDER HOLTZOFF, BURNITA SHELTON
MATTHEWS, JOSEPH C. MCGARRAGHY, JOHN J. SIRICA, GEORGE L. HART, JR.,
LEONARD P. WALSH, WILLIAM B. JONES, HOWARD F. CORCORAN, OLIVER GASCH,
WILLIAM B. BRYANT, JOHN LEWIS SMITH, JR., AUBREY E. ROBINSON, JR.,
JOSEPH C. WADDY, DAVID A. PINE, MATTHEW F. MCGUIRE, HENRY A. SCHWEINHOUT,
RICHARD B. KEECH, CHARLES F. MCLAUGHLIN and LUTHER W. YOUNGDAHL,
all Federal District Judges of the District of Columbia,

Defendants

COMPLAINT FOR INJUNCTIVE RELIEF

I. Jurisdiction

1. Jurisdiction is based upon 28 U.S.C. 1331 and 1343, 11 D.C.Code 521,
and 42 U.S.C. 1983. This action also arises under the Constitution of the
United States, particularly the Fifth Amendment thereof, 31 D.C.Code 101 et
seq. and 20 U.S.C. 884 and similar federal statutes prohibiting inter-
ference with local public school systems by employees of the U.S. Office
of Education. Over \$10,000 exclusive of interest and costs is involved.

II. Nature of Cause of Action

2. This action is composed of two closely related claims. The first
claim challenges the validity of the appointment of Defendant Allen as a
member of the D.C. Board of Education and seeks her removal therefrom.

The second claim calls into question various procedures and acts of the Defendants, including that of Friday, Oct. 27, 1967, in attempting to offer Defendant Manning the position of Superintendent of Schools of the District of Columbia. This is a class action and requests an injunction and other corrective relief.

III. Plaintiffs

3. Plaintiff Julius Hobson is an adult black citizen and taxpayer of the District of Columbia with a minor child in the public schools of said District.
4. Plaintiff Willie Hardy is an adult black citizen and taxpayer of the District of Columbia with minor children in the public schools of said District.
5. Plaintiff Patricia Saltonstall is an adult white citizen and taxpayer of the District of Columbia.
6. Plaintiff Ilia Lee Bullock is an adult black citizen and taxpayer of the District of Columbia with minor children in the public schools of the said District.
7. Plaintiff John M. Thornton is an adult black citizen and taxpayer of the District of Columbia.
8. Plaintiff Donald Green is an adult white citizen and taxpayer of the District of Columbia.
9. Plaintiffs sue on behalf of themselves and all other citizens of the District of Columbia similarly situated. The class is too numerous to bring before the Court.

IV. Defendants

10. Defendant Everett Hewlett is the purported President of the Board of Education of the District of Columbia and a member thereof.

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11. Defendant Anita Allen is the purported vice-President of the Board of Education of the District of Columbia and a ^{purported} member thereof.

12. Defendants John Sessions, Albert Rosenfield, Julian Dugas, Carl Smuck, Ann Stults, and Benjamin Alexander are members of the Board of Education of the District of Columbia.

13. Defendant Board of Education of the District of Columbia is the statutory body with overall responsibility for the administration of the public schools of the District of Columbia.

14. Defendant William Manning is the Superintendent-designate of the public schools of the District of Columbia and upon information and belief has accepted or momentarily will accept the position of Superintendent.

"Defendants" as used herein includes the Defendant Manning only when the context so requires.

15. Defendants Hon. Edward M. Curran, Alexander Holtzoff, Burnita Shelton Matthews, Joseph C. McGarraghy, John J. Sirica, George L. Hart, Jr., Leonard P. Walsh, Willian B. Jones, Howard F. Corcoran, Oliver Gasch, Joseph C. Waddy, William B. Bryant, John Lewis Smith, Jr., Aubrey E. Robinson, Jr.,/David A. Pine, Matthew F. McGuire, Henry A. Schweinhaut, Richmond B. Keech, Charles F. McLaughlin and Luther W. Youngdahl are Federal District Judges of the District of Columbia and are Defendants herein for the sole and limited purpose of requiring them to invalidate their appointment of Defendant Allen as a member of the Board of Education of the District of Columbia or take such other action as is proper to effect her removal. "Defendants" as used herein includes these judicial defendants only when the context so requires.

V. First Cause of Action

16. Defendant Allen is an employee of the U.S. Office of Education and was appointed as a member of the Board of Education for a three-year term beginning July 1, 1967, in violation of 20 U.S.C. 884 and other federal statutes prohibiting federal control of education.

11. Defendant's... of...

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17. Defendant Allen is in fact an agent of federal control of the public school system of the District of Columbia acting under the control and direction of the U.S. Office of Education.

18. Plaintiffs' statutory rights to have their local school system free of national federal control is being denied both by Defendant Allen's presence on the Board of Education and by her actions in regard to her purported membership thereon.

19. Defendant Allen's vote and official actions have been essential to the attempted offer to Defendant Manning of the position of Superintendent.

VI. Second Cause of Action

20. Numerous acts, procedures, and policies of the Defendants' violate Plaintiffs' rights as secured by the Constitution of the United States, particularly the Due Process Clause of the Fifth Amendment thereof, 31 D.C. Code 101 et seq., and the Rules of the Board of Education as hereafter set forth:

21. On July 1, 1967, Defendants elected by secret ballot over the objection of Plaintiffs and other citizens a President and a Vice-President of the Board of Education, in violation of 31 D.C. Code 101. Plaintiffs believe that the results of such election might have been different had the statutory requirement of public voting been followed.

22. Defendants have repeatedly held since July 1, 1967, secret and/or closed meetings for the transaction of official business, particularly including the process of selecting a superintendent of schools, all in particular violation of 31 D.C. Code 101.

23. Defendants have utilized without any legal authority substantial private funds from, and free services of, unknown organizations and persons in, inter alia, selection of a Superintendent; said unknown funds and services have exercised a controlling influence over the selection of a Superintendent to the extent of excluding all independent participation by the Defendants (or by Plaintiffs, and their class) in such process, all in particular violation of 31 D.C. Code 105.

(Board member Dr. Euphemia Haynes, not a defendant in this action, refused to participate in the illegal acts herein set forth and was further denied access to materials concerning the attempted offer to Defendant Manning and other aspects of the selection process.)

24. The power of appointment of a Superintendent of schools has been in fact illegally delegated to the U.S. Office of Education and/or Teachers College, Columbia University and/or the New World Foundation (a tax-exempt charitable foundation with offices in the State and City of New York), in particular violation of 31 D.C. Code 105.

25. A public meeting of Defendants on Friday, Oct. 27, 1967, at which Defendant Manning was offered the position of Superintendent and the actions taken thereat are illegal (independent of the First Cause of Action) in that (a) one Board member received no valid notice whatsoever of said meeting and no attempt to give such notice was made, that (b) the meeting was held without adequate notice as particularly required by the Board rules and that (c) members of the public (including ^{the} Plaintiffs) were specifically denied the right to speak at said meeting in particular violation of the Board rules.

VII. Irreparable Injury

26. Plaintiffs will suffer irreparable injury in that Defendant Manning has stated publicly that he expects to accept within the next few days said attempted offer of Defendants to become the Superintendent of schools, which is by law a three-year appointment, and has further declared that he will shortly thereafter begin to administer the public schools of the District of Columbia as Superintendent. Plaintiffs suffer further irreparable injury in that the school system is currently undergoing major changes such that the decisions made by Defendants now will affect District public education for years to come; further, the legality of the Defendants' official positions is currently at issue in a case pending before the U.S. Supreme Court (Hobson v. Hansen, Oct. Term, 1967).

The first part of the document is a letter from the President of the United States to the Congress, dated January 3, 1862. The letter is addressed to the Senate and the House of Representatives, and is signed by Abraham Lincoln. The letter discusses the state of the Union and the progress of the war against the Confederacy. It also mentions the recent passage of the Emancipation Proclamation and the President's hopes for a speedy end to the conflict.

The second part of the document is a report from the Secretary of the War Department, dated January 10, 1862. The report is addressed to the President and the Congress, and is signed by Edwin M. Stanton. The report provides a detailed account of the military operations of the Union Army during the previous year. It includes information about the number of troops, the equipment, and the results of the battles. The report also mentions the progress of the war and the President's orders.

The third part of the document is a report from the Secretary of the Navy Department, dated January 15, 1862. The report is addressed to the President and the Congress, and is signed by Gideon Welles. The report provides a detailed account of the naval operations of the Union Navy during the previous year. It includes information about the number of ships, the equipment, and the results of the battles. The report also mentions the progress of the war and the President's orders.

The fourth part of the document is a report from the Secretary of the Treasury Department, dated January 20, 1862. The report is addressed to the President and the Congress, and is signed by Alexander C. Howell. The report provides a detailed account of the financial operations of the Union Government during the previous year. It includes information about the revenue, the expenditures, and the state of the Treasury. The report also mentions the progress of the war and the President's orders.

The fifth part of the document is a report from the Secretary of the Interior Department, dated January 25, 1862. The report is addressed to the President and the Congress, and is signed by Caleb B. Smith. The report provides a detailed account of the land and mineral operations of the Union Government during the previous year. It includes information about the land sales, the mineral operations, and the state of the Interior. The report also mentions the progress of the war and the President's orders.

The sixth part of the document is a report from the Secretary of the War Department, dated February 1, 1862. The report is addressed to the President and the Congress, and is signed by Edwin M. Stanton. The report provides a detailed account of the military operations of the Union Army during the previous year. It includes information about the number of troops, the equipment, and the results of the battles. The report also mentions the progress of the war and the President's orders.

The seventh part of the document is a report from the Secretary of the Navy Department, dated February 5, 1862. The report is addressed to the President and the Congress, and is signed by Gideon Welles. The report provides a detailed account of the naval operations of the Union Navy during the previous year. It includes information about the number of ships, the equipment, and the results of the battles. The report also mentions the progress of the war and the President's orders.

The eighth part of the document is a report from the Secretary of the Treasury Department, dated February 10, 1862. The report is addressed to the President and the Congress, and is signed by Alexander C. Howell. The report provides a detailed account of the financial operations of the Union Government during the previous year. It includes information about the revenue, the expenditures, and the state of the Treasury. The report also mentions the progress of the war and the President's orders.

The ninth part of the document is a report from the Secretary of the Interior Department, dated February 15, 1862. The report is addressed to the President and the Congress, and is signed by Caleb B. Smith. The report provides a detailed account of the land and mineral operations of the Union Government during the previous year. It includes information about the land sales, the mineral operations, and the state of the Interior. The report also mentions the progress of the war and the President's orders.

The tenth part of the document is a report from the Secretary of the War Department, dated February 20, 1862. The report is addressed to the President and the Congress, and is signed by Edwin M. Stanton. The report provides a detailed account of the military operations of the Union Army during the previous year. It includes information about the number of troops, the equipment, and the results of the battles. The report also mentions the progress of the war and the President's orders.

VIII. Remedy

27. Plaintiffs respectfully request that the Court issue an order:

- A. declaring the attempted offer of the Superintendency of schools to Defendant Manning void and/or enjoining Defendant Manning from accepting said offer and/or enjoining Defendant Manning from acting as such Superintendent;
- B. declaring the selection process that resulted in the attempted offer of the Superintendency of Schools to Defendant Manning void;
- C. declaring all closed Board meetings on and subsequent to July 1, 1967, void and enjoining all future such meetings;
- D. declaring the July 1, 1967, selection of officers by secret ballot void and enjoining the future use of such procedure;
- E. declaring the school Board seat purportedly held by Defendant Allen vacant and requiring her forthwith removal by the judicial Defendants, such seat remaining vacant until the ultimate disposition of Hobson v. Hansen, now pending in the U.S. Supreme Court;
- F. enjoining Defendants from appointing a permanent Superintendent until a final decision is had in Hobson v. Hansen pending in the U.S. Supreme Court (or, if sooner, until the passage of intervening legislation by Congress);
- G. directing that the Defendants follow in all matters, including the election of a Superintendent, procedures that have been set by statute or by Board rules adopted pursuant to statute;
- H. enjoin Defendants from any delegation of their power to appoint a Superintendent of schools; and
- I. grant such other and further relief as justice may require.

31. Plaintiffs request relief both by way of preliminary and permanent injunctions and ask for an expedited hearing on their application for the preliminary injunction.

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32. Plaintiffs have no adequate remedy at law.

Nov. 1, 1967

William M. Kunstler

Attorney for Plaintiffs

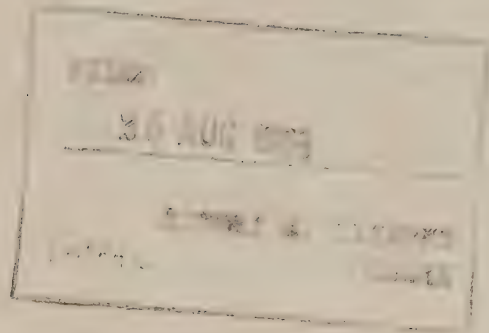
618 D St. NE
Washington, D. C.
543-8699

Verification

I, Julius W. Hobson, being duly sworn, hereby affirm that I am one of the Plaintiffs in the within action; that I have read the foregoing Complaint and know the contents thereof; and that the same is true to the best of my knowledge and belief.

Julius W. Hobson

Affirmed before me
this First day of November, 1967



UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

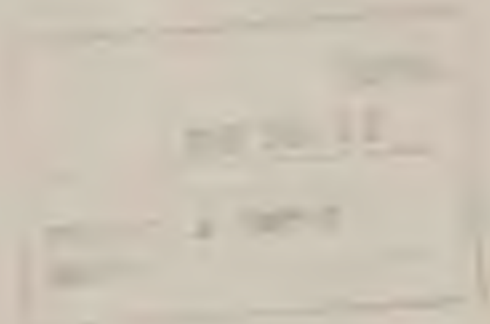
JULIUS W. HOBSON, et al.,
Plaintiffs,
vs.
EVERETT HEWLETT, et al.,
Defendants.

CIVIL ACTION NO. 2813-67
MEMORANDUM OF OPINION

Plaintiffs, all citizens and taxpayers in the District of Columbia, filed an action in which they seek to have the appointment of Dr. William Manning as Superintendent of Schools for the District of Columbia declared illegal. Plaintiffs charge that defendant Anita Allen is disqualified as a member of the District of Columbia Board of Education because she is an employee of the United States Office of Education. Plaintiffs view this as an irreconcilable conflict of interest. It is further charged that the District of Columbia Board of Education acted illegally in that it conducted closed hearings concerning the appointment of a Superintendent of Schools.

This Court has jurisdiction pursuant to 28 U.S.C. 1331 and 1334, 11 D.C. Code 521 and 42 U.S.C. 1983. Plaintiffs also allege that this

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UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

JOHN A. WILSON, et al.,
Plaintiffs,
vs.
JOHN A. WILSON, et al.,
Defendants.

JOHN A. WILSON, et al.,
Plaintiffs,
vs.
JOHN A. WILSON, et al.,
Defendants.

Plaintiffs, all citizens and residents of the District of Columbia, filed an action in which they seek to have the appointment of Mr. William Wilson as Superintendent of Schools for the District of Columbia declared illegal. Plaintiffs charge that defendant Anna Allen is disqualified as a member of the District of Columbia Board of Education because she is an employee of the United States Office of Education. Plaintiffs view this as an unconstitutional conflict of interest. It is further charged that the District of Columbia Board of Education acted illegally in that it conducted closed hearings concerning the appointment of a Superintendent of Schools. This Court has jurisdiction pursuant to 28 U.S.C. 1341 and 1345, to review the action of the District of Columbia Board of Education.

1 action arises under the Constitution of the United
2 States, particularly the Fifth Amendment, 31 D.C.
3 Code 101, et seq., and 20 U.S.C. 884.

4 Originally there were many contentions of
5 fact and law, but at the pretrial the parties agreed
6 that discovery had eliminated all but the following:
7

8 Questions of Fact

9 1. The exact duties and powers exercised
10 by Mrs. Allen at the United States Office of Education
11 between July 1 and November 7, 1967.

12 2. The exact duties and powers exercised
13 by Mrs. Allen at the United States Office of Education
14 since November 7, 1967.

15 Questions of Law

16 1. Whether the duties exercised by Mrs. Allen
17 at the Office of Education between July 1 and November 7,
18 1967, disqualified her from sitting as a member of the
19 Board of Education during that time.

20 2. In the event Mrs. Allen was disqualified
21 from sitting, what effect does this have on the appoint-
22 ment of Dr. Manning as Superintendent?
23

24 3. Whether the duties currently exercised by
25 Mrs. Allen disqualify her from sitting on the Board of
26 Education.

27 4. Whether the Board of Education and its
28 ad hoc committee violated D.C. Code 31-101 by holding
29 private meetings concerning the selection of a
30 Superintendent of Schools.

31 It is established by the evidence that between
32 July 1 and November 7, 1967, Mrs. Allen was employed as

1. The exact dates and hours, estimated

2. The exact dates and hours, estimated

Code 101, 21 sep., and 30 U.S.C. 382.

Originally there were many questions of

fact and law, but at the present the parties agreed

that discovery had eliminated all but the following:

Questions of Law

1. The exact dates and hours, estimated

by Mrs. Allen at the United States Office of Education

between July 1 and November 7, 1967.

2. The exact dates and hours, estimated

by Mrs. Allen at the United States Office of Education

since November 7, 1967.

Questions of Fact

1. Whether the duties exercised by Mrs. Allen

at the Office of Education between July 1 and November 7,

1967, constituted her from sitting as a member of the

Board of Education during that time.

2. In the event Mrs. Allen was disqualified

from sitting, what effect does this have on the appoint-

ment of Dr. Manning as Superintendent?

3. Whether the duties currently exercised by

Mrs. Allen disqualify her from sitting on the Board of

Education.

4. Whether the Board of Education and its

ad hoc committee violated D.C. Code 31-101 by holding

public hearings on the subject.

5. Whether the Board of Education and its

ad hoc committee violated D.C. Code 31-101 by holding

public hearings on the subject.

1 a Section Chief of the Operations Branch, Division of
2 Compensatory Education, Bureau of Elementary and
3 Secondary Education. While she was employed as
4 Section Chief in the Operations Branch, Mrs. Allen
5 participated in the administration of Title I of
6 the Elementary and Secondary Education Act for 12
7 mid-western states. Since September 1, 1967, Mrs.
8 Allen has been engaged in a program to find ways of
9 improving education for disadvantaged children. At
10 no time during her employment in either capacity did
11 she participate in making or influencing decisions
12 which would affect the District of Columbia School
13 System. From her position in the Office of Education
14 Mrs. Allen did not make policy. The policy-making
15 function was reserved to employees higher up in the
16 Office of Education's hierarchy.

17 It does not appear from the evidence that
18 Mrs. Allen either directly or indirectly participated
19 or now participates in decisions which would create
20 a conflict of interest between her duties at the
21 Office of Education and her position on the District
22 of Columbia Board of Education. Accordingly, she
23 is not disqualified to serve on the Board of Education
24 and may exercise her regular duties as a member of
25 that Board. Cases cited by plaintiffs are not
26 applicable to the facts in this case. There is
27 nothing incompatible between the two positions held
28 by Mrs. Allen. It is worth noting that no one vote
29 could have changed the results of the balloting for
30 the appointment of Dr. Manning. His appointment
31 was made upon a vote of 7 to 2. Mrs. Allen voted
32 with the majority.

a Section Chief of the Operations Branch, Division of
Community Education, Bureau of Elementary and
Secondary Education. While she was employed as
Assistant Chief of the Operations Branch, Mrs. Allen
participated in the administration of Title I of
the Elementary and Secondary Education Act for the
elementary schools. From September 1, 1967, to
Allen has been engaged in a program to find ways of
improving education for disadvantaged children. As
in the past her assignment is to assist in the
development of a program for the disadvantaged
which will include the development of a curriculum
system. From her position in the Division of Education
she has been responsible for the development of
a program to assist in the improvement of the
Office of Education's program.
It does not appear from the evidence that
Mrs. Allen either directly or indirectly participated
or now participates in decisions which would create
a conflict of interest between her duties as the
Chief of Education and her position on the Board
of Columbia Board of Education. Accordingly, she
is not disqualified to serve on the Board of Education
and may exercise her regular duties as a member of
that Board. Cases cited by plaintiffs are not
applicable to the facts in this case. There is
nothing incompatible between the two positions held
by Mrs. Allen. It is worth noting that no one else
could have changed the results of the balloting for
the appointment of Mr. Manning. His appointment
was made upon a vote of 7 to 1. Mrs. Allen voted
with the majority.

1 On July 8, 1967, the District of Columbia
2 Board of Education, at an open meeting, appointed an
3 ad hoc committee in search of a Superintendent of
4 Schools. The members appointed to the committee
5 were Anita Allen, Ann Stults, Benjamin Alexander and
6 John Sessions. The committee was appointed for the
7 purpose of finding a new Superintendent of Schools
8 for the District of Columbia. The Board directed
9 the committee to do the following: (1) Solicit
10 names of possible candidates from all members of
11 the Board of Education; (2) encourage the organized
12 citizenry to submit names of possible candidates;
13 (3) submit a list of names to Commissioner of
14 Education Harold Howe and to John Gardner, Secretary,
15 Department of Health, Education and Welfare, for
16 additional suggestions; (4) investigate the possi-
17 bility of using consultants to aid in the screening
18 and interviewing process, and secure them if
19 necessary and desirable; (5) assemble information
20 about the candidates, including their availability
21 and biographical data, and prepare this material for
22 the information of the Board of Education.

23 On July 18, 1967, the ad hoc committee met
24 in an open meeting to establish criteria for selecting
25 a Superintendent of Schools. At this meeting, the
26 committee voted that another committee headed by
27 Dr. Francis Ianni act as consultant to aid in the
28 selection of a Superintendent of Schools.

29 Between July 18 and August 4, 1967, the
30 ad hoc committee met with Dr. Ianni at Columbia
31 University to confer over a list of 81 names of
32 potential candidates for Superintendent of Schools.

On July 8, 1967, the District of Columbia

Board of Education, at its regular meeting, adopted the following resolution:

Schools. The members appointed to the committee were Alice Allen, Ann Seiler, Benjamin Alexander and John Hamilton. The committee was directed to the purpose of finding a new superintendent of schools for the District of Columbia. The Board directed the committee to do the following: (1) solicit names of possible candidates from all members of the Board of Education; (2) encourage the organized citizenry to submit names of possible candidates; (3) submit a list of names to Commissioner of Education Harold Howe and to John Gardner, Secretary, Department of Health, Education and Welfare, in

additional suggestions; (4) investigate the possibility of using consultants to aid in the search; and interviewing process, and secure their necessary and feasible information.

and the committee, including their continuing and biographical data, and prepare this material for the information of the Board of Education.

On July 18, 1967, the ad hoc committee met in an open meeting to establish criteria for selecting a Superintendent of Schools. At this meeting, the committee heard testimony and recommendations by Dr. Francis Ianni and as consultant to aid in the selection of a Superintendent of Schools.

Between July 18 and August 4, 1967, the ad hoc committee met with Dr. Ianni as consultant to aid in the selection of a Superintendent of Schools. However, no meeting was held on July 21 since Dr. Ianni's availability for consultation at that time.

On July 18, 1967, the ad hoc committee met in an open meeting to establish criteria for selecting a Superintendent of Schools. At this meeting, the committee heard testimony and recommendations by Dr. Francis Ianni and as consultant to aid in the selection of a Superintendent of Schools.

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Between July 18 and August 4, 1967, the ad hoc committee met with Dr. Ianni as consultant to aid in the selection of a Superintendent of Schools. However, no meeting was held on July 21 since Dr. Ianni's availability for consultation at that time.

On July 18, 1967, the ad hoc committee met in an open meeting to establish criteria for selecting a Superintendent of Schools. At this meeting, the committee heard testimony and recommendations by Dr. Francis Ianni and as consultant to aid in the selection of a Superintendent of Schools.

1 On August 4, 1967, the ad hoc committee sent
2 a letter to the members of the School Board stating
3 that a conference had been held with Dr. Ianni con-
4 cerning a list of 81 potential Superintendent of
5 Schools candidates. On August 9, 1967, the ad hoc
6 committee sent the members of the School Board a
7 list of six persons which the Ianni committee had
8 rated as the best qualified for the position of
9 Superintendent of Schools.

10 On August 21, 1967, after the Board of
11 Education had received a status report from the ad
12 hoc committee, members of the Board, including some
13 members of its ad hoc committee, met with Dr. Ianni
14 in a closed conference to discuss candidates for
15 Superintendent of Schools. All members of the Board
16 of Education were invited to this meeting.

17 Between August 22 and October 27, 1967, the
18 ad hoc committee contacted four of the six persons
19 recommended by the Ianni committee, Wilson Riles,
20 Gordon McAndrew, William Manning and Neil Sullivan.
21 Various members of the ad hoc committee and other
22 members of the Board of Education personally inter-
23 viewed the first three of the above named candidates.

24 The ad hoc committee recommended the appoint-
25 ment of Dr. Manning on October 27, 1967. The Board
26 of Education received and acted upon the report on
27 October 27, 1967. At an open meeting on November 7,
28 1967, the Board approved the appointment of Dr. Manning
29 by a vote of 7 to 2.

30 The question is whether the Board of
31 Education acted illegally by holding private meetings
32 concerning the selection of a Superintendent of Schools.

On August 4, 1967, the ad hoc committee sent a letter to the members of the School Board stating that a conference had been held with Dr. Land concerning a list of 81 potential superintendents of schools candidates. On August 9, 1967, the ad hoc committee sent the members of the School Board a list of six persons which the Land committee had rated as the best qualified for the position of Superintendent of Schools.

On August 21, 1967, after two days of discussion and deliberation, the members of the ad hoc committee, composed of the School Board, including members of the ad hoc committee met with Dr. Land in a closed conference to discuss candidates for Superintendent of Schools. All members of the Board of Education were invited to this meeting.

Between August 28 and October 11, 1967, the ad hoc committee consisted four of the six persons recommended by the Land committee, William Elliot Gordon, Mendon, William Manning and Neil Sullivan. Various members of the ad hoc committee and other members of the Board of Education personally interviewed the three of the above named candidates.

The ad hoc committee recommended the appointment of Dr. Manning on October 27, 1967. The Board of Education received and acted upon the report on October 27, 1967. At an open meeting on November 7, 1967, the Board approved the appointment of Dr. Manning by a vote of 7 to 2.

The question is whether the Board of Education acted illegally in appointing Dr. Manning as Superintendent of Schools.

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1 Section 31-101, D.C. Code, 1967 ed., provides in
2 pertinent part that "all meetings whatsoever of the
3 Board shall be open to the public, except committee
4 meetings dealing with the appointment of teachers."

5 Section 31-105, D.C. Code, 1967 ed., provides in
6 pertinent part that "the Board shall appoint one
7 superintendent for all the public schools in the
8 District of Columbia" It is apparent from
9 the foregoing that the Board of Education must appoint
10 the Superintendent of Schools for the District of
11 Columbia at a meeting which is open to the public.

12 The question posed by the plaintiffs is
13 whether all activities of the Board must be conducted
14 at an open hearing, or whether certain business can
15 be conducted in private. In jurisdictions which have
16 statutes requiring public hearings, the law generally
17 requires that hearings be open where official action
18 is taken. Where other than official action is taken,
19 a public hearing is not required. In the cases that
20 follow, the Courts were concerned with a statute which
21 is similar to Section 31-101, D.C. Code, 1967 ed.
22 That is, there was no specific provision for unofficial
23 action at a closed hearing. The cases support the
24 proposition that unofficial action does not require
25 a public hearing. See Schults vs. Bd. of Education of
26 Teaneck, 205 A. 2d 762 (N.J. App. Div., 1964); Wolf vs.
27 Zoning Bd. of Adjust. of Park Ridge, 192 A. 2d 305
28 (N.J. App. Div., 1963). On the other hand, the follow-
29 ing statutes contain a specific provision for conducting
30 certain unofficial business at closed hearings. See
31 Purdon's Penna. Statutes Annotated, Title 65 Section
32 251(B); Vermont Statutes, Title I Section 313.

Section 31-101, D.C. Code, 1967 ed., provides in

and 10. *Myosin ATPase* activities ($\mu\text{mol Pi}$ per mg protein per min)

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Section 31-107, D.C. Code, 1967 ed., provides in

portinent part that "the Board will appoint one

Journal of the American Statistical Association

1 It is noteworthy that on April 22, 1968,
2 Congress amended Section 31-101, D.C. Code, to read
3 in pertinent part as follows:

4 "Meetings of the Board of Education
5 shall be open to the public; except that
6 the Board of Education (1) may close to
7 the public any meeting (or part thereof)
8 dealing with the appointment, promotion,
9 transfer, or termination of employment of,
10 or any other related matter involving any
11 employee of the Board of Education, and
12 (2) may close to the public any meeting
13 (or part thereof) dealing with any other
14 matter but no final policy decision on
15 such other matter may be made by the
16 Board of Education in a meeting (or part
17 thereof) closed to the public." 82 Stat.
18 102 P.L. 90-902, April 22, 1968.

19 Certainly, all the actions taken by the Board of
20 Education and its ad hoc committee would be legal
21 under the amended code.

22 Plaintiffs claim that the defendants have
23 held private meetings concerning the appointment of
24 a Superintendent of Schools between July 1 and
25 November 7, 1967. The evidence establishes that any
26 private meetings were committee meetings. The pur-
27 pose of these meetings was to investigate and screen
28 candidates for the position of Superintendent of Schools
29 and discuss their qualifications. The Courts have
30 generally not required agency investigations to be
31 open to the public. See Applegate vs. Waterfront
32 Commission of New York Harbor, 204 N.Y.S. 2d 197 (1960).

It is recommended that on July 25, 1944
the Board of Education be advised that the
Board of Education is authorized to

in pertinent part as follows:
"The Board of Education is authorized to
close the Board of Education to the public and
the Board of Education (1) may close to
the public any meeting (or part thereof)
dealing with the appointment, promotion,
transfer, or termination of employment of,
or any other related matter involving any
employee of the Board of Education, and
(2) may close to the public any meeting
(or part thereof) dealing with any other
matter but no final policy decision on
any matter shall be made by the
Board of Education in a meeting (or part
thereof) closed to the public." 25 Stat.
107 P.S. 25-207, April 22, 1937.

Accordingly, all the actions taken by the Board of
Education and its sub-committees would be held
secret and confidential.

It is recommended that the Board of Education
hold private meetings concerning the appointment of
a Superintendent of Schools between July 1 and
October 1, 1944. The Board of Education and its
sub-committees and advisory committees, the Board
of Education was to investigate and select
candidates for the position of Superintendent of Schools
and should fully well understand that the Board
of Education is authorized to investigate and
select for the position of Superintendent of Schools.
The Board of Education is authorized to investigate
and select for the position of Superintendent of Schools.
The Board of Education is authorized to investigate
and select for the position of Superintendent of Schools.

1 Investigations are informal proceedings held to obtain
2 information to govern or support future action. They
3 are not proceedings wherein official action is taken.
4 The committee meetings, viewed in context, were
5 investigations. In this case, the official appoint-
6 ment was made at a public hearing on November 7, 1967.
7 An investigation by committee may result in a recom-
8 mendation, but this is not official action.

9 In this case, the investigation preceding
10 official action was necessary to find people who
11 might be qualified for the post of Superintendent of
12 Schools and to inquire of such persons as to whether
13 they would be interested in accepting the position
14 and to look into the qualifications of persons who
15 were or would become candidates. This involved
16 investigation of a large number of people. In such
17 circumstances, it is entirely appropriate and, indeed,
18 it is generally considered the function of such an
19 investigating committee to report and recommend a
20 particular person or that serious consideration be
21 given to a limited number of candidates. Although
22 this process is frequently referred to as screening
23 candidates, it does not officially eliminate consi-
24 deration of any candidate. When the report is made,
25 at the time official action is to be taken, the report
26 may be accepted and the recommendations followed or
27 it may be rejected and any appropriate action taken.
28 This was the method agreed upon by the Board of
29 Education at a public hearing on July 8, 1967. The
30 ad hoc committee subsequently conducted a public
31 hearing on July 18, 1967, wherein the process which
32 it proposed to follow was agreed upon and publicly

Investigations are informal proceedings held to obtain information in order to determine if there is a case. They are not proceedings wherein official action is taken. The committee meetings, viewed in context, were investigations. In this case, the official appointment was made at a public hearing on November 7, 1961. An investigation by committee may result in a recommendation, but this is not official action.

In this case, the investigation was informal. Official action was taken only at the public hearing. It might be said that for the purpose of the investigation of schools and so forth of such persons as to whether they would be interested in accepting the position and to look into the qualifications of persons who were or would become candidates. This investigation of a large number of people. In some circumstances, it is entirely appropriate and, indeed, it is generally considered the function of such an investigating committee to report and recommend a particular person or persons for consideration in giving to a limited number of candidates. Although this process is frequently referred to as screening candidates, it does not officially eliminate consideration of any candidate. When the report is made, at the time official action is to be taken, the report may be accepted and the recommendations followed or it may be rejected and any appropriate action taken. This was the method agreed upon by the board of trustees at a public hearing on July 1, 1961. The ad hoc committee subsequently conducted a public hearing on July 14, 1961, and the board of trustees on July 18, 1961, and the board of trustees on July 18, 1961.

stated.

The appointment of an ad hoc committee could have been challenged at the public meeting of July 8, 1967, or the method of seeking and screening candidates could have been challenged at the public committee meeting on July 18, 1967, or the report and recommendations could have been rejected at the public hearing on November 7, 1967. The selection process was legal and regular in all respects.

Mrs. Allen's employment with the United States Office of Education does not disqualify her from serving on the Board of Education. The appointment of William Manning as Superintendent of Schools was legal and the process employed in selecting Dr. Manning did not violate the provisions of D.C. Code 31-101.

Judgment should be entered in favor of the defendants. This Memorandum of Opinion shall serve as Findings of Fact and Conclusions of Law pursuant to Rule 52, F.R.Civ.P.

DATED: August 21, 1969.

ALBERT LEE STEPHENS, JR.
Albert Lee Stephens, Jr.
United States District Judge

LA.

SECRET

The Department of State has been advised that the Commission on the Status of Women, established in 1946, is now working on a report on the status of women in the United States. The Commission has been authorized to hold hearings on the status of women in the United States and to submit a report to the President. The Commission has been authorized to hold hearings on the status of women in the United States and to submit a report to the President. The Commission has been authorized to hold hearings on the status of women in the United States and to submit a report to the President.

It is noted that the Commission has been authorized to hold hearings on the status of women in the United States and to submit a report to the President. The Commission has been authorized to hold hearings on the status of women in the United States and to submit a report to the President. The Commission has been authorized to hold hearings on the status of women in the United States and to submit a report to the President.

It is noted that the Commission has been authorized to hold hearings on the status of women in the United States and to submit a report to the President. The Commission has been authorized to hold hearings on the status of women in the United States and to submit a report to the President. The Commission has been authorized to hold hearings on the status of women in the United States and to submit a report to the President.

United States Department of State
Washington, D.C. 20520

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

JULIUS W. HOBSON, residing at 300 M St. SW;
WILLIE J. HARDY, residing at 5046 Benning Rd. S.E.;
PATRICIA SALTONSTALL, residing at 4351 Klinge St. N.W.;
JOHN M. THORNTON, residing at 1736 Allison St. N.E.;
ILIA LEE BULLOCK, residing at 1005 Kenyon St. N.W.;
DONALD GREEN, residing at 1061 31st St. N.W.;

Plaintiffs

v.

CA No. 2813-67

EVERETT HEWLETT, ANITA ALLEN, JOHN SESSIONS,
ALBERT ROSENFELD, JULIAN DUGAS, CARL SMUCK,
ANN STULTS, AND BENJAMIN ALEXANDER, all members
of the Board of Education of the District of
Columbia with offices at Franklin Building,
13th and K Streets N.W., Washington, D.C.;
THE BOARD OF EDUCATION OF THE DISTRICT OF
COLUMBIA, with office at the same address;
WILLIAM MANNING, with temporary office at the
same address; Hon. EDWARD M. CURRAN, ALEXANDER HOLTZOFF, BURNITA SHELTON
MATTHEWS, JOSEPH C. MCGARRAGHY, JOHN J. SIRICA, GEORGE L. HART, JR.,
LEONARD P. WALSH, WILLIAM B. JONES, HOWARD F. CORCORAN, OLIVER GASCH,
WILLIAM B. BRYANT, JOHN LEWIS SMITH, JR., AUBREY E. ROBINSON, JR.,
JOSEPH C. WADDY, DAVID A. PINE, MATTHEW F. MCGUIRE, HENRY A. SCHWEINHART,
RICHARD B. KEECH, CHARLES F. MCLAUGHLIN and LUTHER W. YOUNGDAHL,
all Federal District Judges of the District of Columbia,

Defendants

COMPLAINT FOR INJUNCTIVE RELIEF

I. Jurisdiction

1. Jurisdiction is based upon 28 U.S.C. 1331 and 1343, 11 D.C. Code 521,
and 42 U.S.C. 1983. This action also arises under the Constitution of the
United States, particularly the Fifth Amendment thereof, 31 D.C. Code 101 et
seq. and 20 U.S.C. 884 and similar federal statutes prohibiting inter-
ference with local public school systems by employees of the U.S. Office
of Education. Over \$10,000 exclusive of interest and costs is involved.

II. Nature of Cause of Action

2. This action is composed of two closely related claims. The first
claim challenges the validity of the appointment of Defendant Allen as a
member of the D.C. Board of Education and seeks her removal therefrom.

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The second claim calls into question various procedures and acts of the Defendants, including that of Friday, Oct. 27, 1967, in attempting to offer Defendant Manning the position of Superintendent of Schools of the District of Columbia. This is a class action and requests an injunction and other corrective relief.

III. Plaintiffs

3. Plaintiff Julius Hobson is an adult black citizen and taxpayer of the District of Columbia with a minor child in the public schools of said District.
4. Plaintiff Willie Hardy is an adult black citizen and taxpayer of the District of Columbia with minor children in the public schools of said District.
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10. Defendant Everett Hewlett is the purported President of the Board of Education of the District of Columbia and a member thereof.

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14. Defendant William Manning is the Superintendent-designate of the public schools of the District of Columbia and upon information and belief has accepted or momentarily will accept the position of Superintendent.

"Defendants" as used herein includes the Defendant Manning only when the context so requires.

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V. First Cause of Action

16. Defendant Allen is an employee of the U.S. Office of Education and was appointed as a member of the Board of Education for a three-year term beginning July 1, 1967, in violation of 20 U.S.C. 884 and other federal statutes prohibiting federal control of education.

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17. Defendant Allen is in fact an agent of federal control of the public school system of the District of Columbia acting under the control and direction of the U.S. Office of Education.

18. Plaintiffs' statutory rights to have their local school system free of national federal control is being denied both by Defendant Allen's presence on the Board of Education and by her actions in regard to her purported membership thereon.

19. Defendant Allen's vote and official actions have been essential to the attempted offer to Defendant Manning of the position of Superintendent.

VI. Second Cause of Action

20. Numerous acts, procedures, and policies of the Defendants' violate Plaintiffs' rights as secured by the Constitution of the United States, particularly the Due Process Clause of the Fifth Amendment thereof, 31 D.C. Code 101 et seq., and the Rules of the Board of Education as hereafter set forth:

21. On July 1, 1967, Defendants elected by secret ballot over the objection of Plaintiffs and other citizens a President and a Vice-President of the Board of Education, in violation of 31 D.C. Code 101. Plaintiffs believe that the results of such election might have been different had the statutory requirement of public voting been followed.

22. Defendants have repeatedly held since July 1, 1967, secret and/or closed meetings for the transaction of official business, particularly including the process of selecting a superintendent of schools, all in particular violation of 31 D.C. Code 101.

23. Defendants have utilized without any legal authority substantial private funds from, and free services of, unknown organizations and persons in, inter alia, selection of a Superintendent; said unknown funds and services have exercised a controlling influence over the selection of a Superintendent to the extent of excluding all independent participation by the Defendants (or by Plaintiffs, and their class) in such process, all in particular violation of 31 D.C. Code 105.

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(Board member Dr. Euphemia Haynes, not a defendant in this action, refused to participate in the illegal acts herein set forth and was further denied access to materials concerning the attempted offer to Defendant Manning and other aspects of the selection process.)

24. The power of appointment of a Superintendent of schools has been in fact illegally delegated to the U.S. Office of Education and/or Teachers College, Columbia University and/or the New World Foundation (a tax-exempt charitable foundation with offices in the State and City of New York), in particular violation of 31 D.C. Code 105.

25. A public meeting of Defendants on Friday, Oct. 27, 1967, at which Defendant Manning was offered the position of Superintendent and the actions taken thereat are illegal (independent of the First Cause of Action) in that (a) one Board member received no valid notice whatsoever of said meeting and no attempt to give such notice was made; that (b) the meeting was held without adequate notice as particularly required by the Board rules and that (c) members of the public (including Plaintiffs) were specifically denied the right to speak at said meeting in particular violation of the Board rules.

VII. Irreparable Injury

26. Plaintiffs will suffer irreparable injury in that Defendant Manning has stated publicly that he expects to accept within the next few days said attempted offer of Defendants to become the Superintendent of schools, which is by law a three-year appointment, and has further declared that he will shortly thereafter begin to administer the public schools of the District of Columbia as Superintendent. Plaintiffs suffer further irreparable injury in that the school system is currently undergoing major changes such that the decisions made by Defendants now will affect District public education for years to come; further, the legality of the Defendants' official positions is currently at issue in a case pending before the U.S. Supreme Court (Hobson v. Hansen, Oct. Term, 1967).

VIII. Remedy

27. Plaintiffs respectfully request that the Court issue an order:

- A. declaring the attempted offer of the Superintendency of schools to Defendant Manning void and/or enjoining Defendant Manning from accepting said offer and/or enjoining Defendant Manning from acting as such Superintendent;
- B. declaring the selection process that resulted in the attempted offer of the Superintendency of Schools to Defendant Manning void;
- C. declaring all closed Board meetings on and subsequent to July 1, 1967, void and enjoining all future such meetings;
- D. declaring the July 1, 1967, selection of officers by secret ballot void and enjoining the future use of such procedure;
- E. declaring the school Board seat purportedly held by Defendant Allen vacant and requiring her forthwith removal by the judicial Defendants, such seat remaining vacant until the ultimate disposition of Hobson v. Hansen, now pending in the U.S. Supreme Court;
- F. enjoining Defendants from appointing a permanent Superintendent until a final decision is had in Hobson v. Hansen pending in the U.S. Supreme Court (or, if sooner, until the passage of intervening legislation by Congress);
- G. directing that the Defendants follow in all matters, including the election of a Superintendent, procedures that have been set by statute or by Board rules adopted pursuant to statute;
- H. enjoin Defendants from any delegation of their power to appoint a Superintendent of schools; and
- I. grant such other and further relief as justice may require.

31. Plaintiffs request relief both by way of preliminary and permanent injunctions and ask for an expedited hearing on their application for the preliminary injunction.

32. Plaintiffs have no adequate remedy at law.

Nov. 1, 1967

William M. Kunstler

Attorney for Plaintiffs

618 D St. NE
Washington, D. C.
543-8699

Verification

I, Julius W. Hobson, being duly sworn, hereby affirm that I am one of the Plaintiffs in the within action; that I have read the foregoing Complaint and know the contents thereof; and that the same is true to the best of my knowledge and belief.

Julius W. Hobson

Affirmed before me
this First day of November, 1967

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

JULIUS W. HOBSON, residing at 300 M St. SW;
WILLIE J. HARDY, residing at 5046 Benning Rd. S.E.;
PATRICIA SALTONSTALL, residing at 4351 Klinge St. N.W.;
JOHN M. THORNTON, residing at 1736 Allison St. N.E.;
ILIA LEE BULLOCK, residing at 1005 Kenyon St. N.W.;
DONALD GREEN, residing at 1061 31st St. N.W.;

Plaintiffs

v.

CA No. 2813-67

EVERETT HEWLETT, ANITA ALLEN, JOHN SESSIONS,
ALBERT ROSENFELD, JULIAN DUGAS, CARL SMUCK,
ANN STULTS, AND BENJAMIN ALEXANDER, all members
of the Board of Education of the District of
Columbia with offices at Franklin Building,
13th and K Streets N.W., Washington, D.C.;
THE BOARD OF EDUCATION OF THE DISTRICT OF
COLUMBIA, with office at the same address;
WILLIAM MANNING, with temporary office at the
same address; Hon. EDWARD M. CURRAN, ALEXANDER HOLTZOFF, BURNITA SHELTON
MATTHEWS, JOSEPH C. MCGARRAGHY, JOHN J. SIRICA, GEORGE L. HART, JR.,
LEONARD P. WALSH, WILLIAM B. JONES, HOWARD F. CORCORAN, OLIVER GASCH,
WILLIAM B. BRYANT, JOHN LEWIS SMITH, JR., AUBREY E. ROBINSON, JR.,
JOSEPH C. WADDY, DAVID A. PINE, MATTHEW F. MCGUIRE, HENRY A. SCHWEINHOUT,
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all Federal District Judges of the District of Columbia,

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1. The following is a list of the names of the persons who have been appointed to the various positions in the Department of the Interior, for the year ending June 30, 1901.

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- I. grant such other and further relief as justice may require.

31. Plaintiffs request relief both by way of preliminary and permanent injunctions and ask for an expedited hearing on their application for the preliminary injunction.

32. Plaintiffs have no adequate remedy at law.

Nov. 1, 1967

William M. Kunstler

Attorney for Plaintiffs

618 D St. NE
Washington, D. C.
543-8699

Verification

I, Julius W. Hobson, being duly sworn, hereby affirm that I am one of the Plaintiffs in the within action; that I have read the foregoing Complaint and know the contents thereof; and that the same is true to the best of my knowledge and belief.

Julius W. Hobson

Affirmed before me
this First day of November, 1967

Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL
DISTRICT BUILDING
WASHINGTON, D.C. 20004



August 27, 1969

IN REPLY REFER TO:
CP:MJM:st

Mrs. Gertrude L. Williamson
Secretary, Board of Education
Presidential Building
415 12th Street, N.W.
Washington, D.C. 20004

In Re: Hobson, et al v. Hewlett, et al.,
Civil Action No. 2813-67

Dear Mrs. Williamson:

Enclosed is a copy of a Memorandum of Opinion signed by Albert Lee Stephens, Jr., United States District Judge in the above-referenced action, wherein he rules that the manner of selection and appointment of Dr. William R. Manning as Superintendent of Schools was legitimate. Further, he finds that the past and present employment of Mrs. Anita Allen with the Office of Education does not conflict with her membership on the District of Columbia Board of Education.

Very truly yours,


MATTHEW J. MULLANEY, JR.
Assistant Corporation Counsel, D.C.

Encl.

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JUL 27 1969

UNITED STATES DISTRICT COURT

DISTRICT OF COLUMBIA

Aug 27-1969

JULIUS W. ROSSON, et al.,

Plaintiffs,

vs.

EVERETT NEWLETT, et al.,

Defendants.

CIVIL ACTION NO. 2813-67

MEMORANDUM OF OPINION

Plaintiffs, all citizens and taxpayers in the District of Columbia, filed an action in which they seek to have the appointment of Dr. William Manning as Superintendent of Schools for the District of Columbia declared illegal. Plaintiffs charge that defendant Anita Allen is disqualified as a member of the District of Columbia Board of Education because she is an employee of the United States Office of Education. Plaintiffs view this as an irreconcilable conflict of interest. It is further charged that the District of Columbia Board of Education acted illegally in that it conducted closed hearings concerning the appointment of a Superintendent of Schools.

This Court has jurisdiction pursuant to 28 U.S.C. 1331 and 1334, 22 U.S.C. Code 521 and 42 U.S.C. 1983. Plaintiffs also allege that this

1 action arises under the Constitution of the United
2 States, particularly the 11th Amendment, 31 D.C.
3 Code 101, et seq., and 20 U.S.C. 884.

4 Originally there were many contentions of
5 fact and law, but at the pretrial the parties agreed
6 that discovery had eliminated all but the following:
7

8 Questions of Fact

9 1. The exact duties and powers exercised
10 by Mrs. Allen at the United States Office of Education
11 between July 1 and November 7, 1967.

12 2. The exact duties and powers exercised
13 by Mrs. Allen at the United States Office of Education
14 since November 7, 1967.

15 Questions of Law

16 1. Whether the duties exercised by Mrs. Allen
17 at the Office of Education between July 1 and November 7,
18 1967, disqualified her from sitting as a member of the
19 Board of Education during that time.

20 2. In the event Mrs. Allen was disqualified
21 from sitting, what effect does this have on the appoint-
22 ment of Dr. Manning as Superintendent?

23 3. Whether the duties currently exercised by
24 Mrs. Allen disqualify her from sitting on the Board of
25 Education.

26 4. Whether the Board of Education and its
27 ad hoc committee violated D.C. Code 31-101 by holding
28 private meetings concerning the selection of a
29 Superintendent of Schools.

30 It is established by the evidence that between
31 July 1 and November 7, 1967, Mrs. Allen was employed as

1 a Section Chief of the Operations Branch, Division of
2 Compensatory Education, Bureau of Elementary and
3 Secondary Education. While she was employed as
4 Section Chief in the Operations Branch, Mrs. Allen
5 participated in the administration of Title I of
6 the Elementary and Secondary Education Act for 12
7 mid-western states. Since September 1, 1967, Mrs.
8 Allen has been engaged in a program to find ways of
9 improving education for disadvantaged children. At
10 no time during her employment in either capacity did
11 she participate in making or influencing decisions
12 which would affect the District of Columbia School
13 System. From her position in the Office of Education
14 Mrs. Allen did not make policy. The policy-making
15 function was reserved to employees higher up in the
16 Office of Education's hierarchy.

17 It does not appear from the evidence that
18 Mrs. Allen either directly or indirectly participated
19 or now participates in decisions which would create
20 a conflict of interest between her duties at the
21 Office of Education and her position on the District
22 of Columbia Board of Education. Accordingly, she
23 is not disqualified to serve on the Board of Education
24 and may exercise her regular duties as a member of
25 that Board. Cases cited by plaintiffs are not
26 applicable to the facts in this case. There is
27 nothing incompatible between the two positions held
28 by Mrs. Allen. It is worth noting that no one vote
29 could have changed the results of the balloting for
30 the appointment of Dr. Hawking. His appointment
31 was made upon a vote of 7 to 2. Mrs. Allen voted
32 with the majority.

On July 9, 1967, the District of Columbia Board of Education, at an open meeting, appointed an ad hoc committee in search of a Superintendent of Schools. The members appointed to the committee were Anita Allen, Ann Skults, Benjamin Alexander and John Cassiano. The committee was appointed for the purpose of finding a new Superintendent of Schools for the District of Columbia. The Board directed the committee to do the following: (1) Solicit names of possible candidates from all members of the Board of Education; (2) encourage the organized citizenry to submit names of possible candidates; (3) submit a list of names to Commissioner of Education Harold Howe and to John Gardner, Secretary, Department of Health, Education and Welfare, for additional suggestions; (4) investigate the possibility of using consultants to aid in the screening and interviewing process, and secure them if necessary and desirable; (5) assemble information about the candidates, including their availability and biographical data, and prepare this material for the information of the Board of Education.

On July 18, 1967, the ad hoc committee met in an open meeting to establish criteria for selecting a Superintendent of Schools. At this meeting, the committee voted that another committee headed by Dr. Francis Xammi act as consultant to aid in the selection of a Superintendent of Schools.

Between July 18 and August 4, 1967, the ad hoc committee met with Dr. Xammi at Columbia University to confer over a list of 81 names of potential candidates for Superintendent of Schools.

1 On August 4, 1967, the ad hoc committee sent
2 a letter to the members of the School Board stating
3 that a conference had been held with Dr. Ianni con-
4 cerning a list of 31 potential Superintendent of
5 Schools candidates. On August 9, 1967, the ad hoc
6 committee sent the members of the School Board a
7 list of six persons which the Ianni committee had
8 rated as the best qualified for the position of
9 Superintendent of Schools.

10 On August 21, 1967, after the Board of
11 Education had received a status report from the ad
12 hoc committee, members of the Board, including some
13 members of its ad hoc committee, met with Dr. Ianni
14 in a closed conference to discuss candidates for
15 Superintendent of Schools. All members of the Board
16 of Education were invited to this meeting.

17 Between August 22 and October 27, 1967, the
18 ad hoc committee contacted four of the six persons
19 recommended by the Ianni committee, Wilson Riles,
20 Gordon McAndrew, William Manning and Neil Sullivan.
21 Various members of the ad hoc committee and other
22 members of the Board of Education personally inter-
23 viewed the first three of the above named candidates.

24 The ad hoc committee recommended the appoint-
25 ment of Dr. Manning on October 27, 1967. The Board
26 of Education received and acted upon the report on
27 October 27, 1967. At an open meeting on November 7,
28 1967, the Board approved the appointment of Dr. Manning
29 by a vote of 7 to 2.

30 The question is whether the Board of
31 Education acted illegally by holding private meetings
32 concerning the selection of a Superintendent of Schools.

1 Section 31-101, D.C. Code, 1967 ed., provides in
2 pertinent part that "all meetings whatsoever of the
3 Board shall be open to the public, except committee
4 meetings dealing with the appointment of teachers."

5 Section 31-105, D.C. Code, 1967 ed., provides in
6 pertinent part that "the Board shall appoint one
7 superintendent for all the public schools in the
8 District of Columbia" It is apparent from
9 the foregoing that the Board of Education must appoint
10 the Superintendent of Schools for the District of
11 Columbia at a meeting which is open to the public.

12 The question posed by the plaintiffs is
13 whether all activities of the Board must be conducted
14 at an open hearing, or whether certain business can
15 be conducted in private. In jurisdictions which have
16 statutes requiring public hearings, the law generally
17 requires that hearings be open where official action
18 is taken. Where other than official action is taken,
19 a public hearing is not required. In the cases that
20 follow, the Courts were concerned with a statute which
21 is similar to Section 31-101, D.C. Code, 1967 ed.
22 That is, there was no specific provision for unofficial
23 action at a closed hearing. The cases support the
24 proposition that unofficial action does not require
25 a public hearing. See Schults vs. Bd. of Education of
26 Trumbull, 205 A. 2d 762 (N.J. App. Div., 1964); Wolf vs.
27 Zoning Bd. of Adjust. of Park Ridge, 192 A. 2d 305
28 (N.J. App. Div., 1963). On the other hand, the follow-
29 ing statutes contain a specific provision for conducting
30 certain unofficial business at closed hearings. See
31 Purdon's Penna. Statutes Annotated, Title 65 Section
32 252(b); Vermont Statutes, Title 2 Section 323.

1 It is noteworthy that on April 22, 1968,
2 Congress amended Section 31-101, D.C. Code, to read
3 in pertinent part as follows:

4 "Meetings of the Board of Education
5 shall be open to the public; except that
6 the Board of Education (1) may close to
7 the public any meeting (or part thereof)
8 dealing with the appointment, promotion,
9 transfer, or termination of employment of,
10 or any other related matter involving any
11 employee of the Board of Education, and
12 (2) may close to the public any meeting
13 (or part thereof) dealing with any other
14 matter but no final policy decision on
15 such other matter may be made by the
16 Board of Education in a meeting (or part
17 thereof) closed to the public." 82 Stat.
18 102 P.L. 90-902, April 22, 1968.

19 Certainly, all the actions taken by the Board of
20 Education and its ad hoc committee would be legal
21 under the amended code.

22 Plaintiffs claim that the defendants have
23 held private meetings concerning the appointment of
24 a Superintendent of Schools between July 1 and
25 November 7, 1967. The evidence establishes that any
26 private meetings were committee meetings. The pur-
27 pose of these meetings was to investigate and screen
28 candidates for the position of Superintendent of Schools
29 and discuss their qualifications. The committee have
30 generally not required agency investigations to be
31 open to the public. See Aradecare vs. Washington
32 Commission of New York State, 234 N.Y.S. 2d 197 (1960).

1 Investigations are informal proceedings held to obtain
2 information to govern or support future action. They
3 are not proceedings wherein official action is taken.
4 The committee meetings, viewed in context, were
5 investigations. In this case, the official appoint-
6 ment was made at a public hearing on November 7, 1967.
7 An investigation by committee may result in a recom-
8 mendation, but this is not official action.

9 In this case, the investigation preceding
10 official action was necessary to find people who
11 might be qualified for the post of Superintendent of
12 Schools and to inquire of such persons as to whether
13 they would be interested in accepting the position
14 and to look into the qualifications of persons who
15 were or would become candidates. This involved
16 investigation of a large number of people. In such
17 circumstances, it is entirely appropriate and, indeed,
18 it is generally considered the function of such an
19 investigating committee to report and recommend a
20 particular person or that serious consideration be
21 given to a limited number of candidates. Although
22 this process is frequently referred to as screening
23 candidates, it does not officially eliminate consi-
24 deration of any candidate. When the report is made,
25 at the time official action is to be taken, the report
26 may be accepted and the recommendations followed or
27 it may be rejected and any appropriate action taken.
28 This was the method agreed upon by the Board of
29 Education at a public hearing on July 8, 1967. The
30 ad hoc committee subsequently conducted a public
31 hearing on July 18, 1967, wherein the process which
32 it proposed to follow was agreed upon and publicly

stated.

The appointment of an ad hoc committee could have been challenged at the public meeting of July 8, 1967, or the method of seeking and screening candidates could have been challenged at the public committee meeting on July 18, 1967, or the report and recommendations could have been rejected at the public hearing on November 7, 1967. The selection process was legal and regular in all respects.

Mrs. Allen's employment with the United States Office of Education does not disqualify her from serving on the Board of Education. The appointment of William Manning as Superintendent of Schools was legal and the process employed in selecting Dr. Manning did not violate the provisions of D.C. Code 31-101.

Judgment should be entered in favor of the defendants. This Memorandum of Opinion shall serve as Findings of Fact and Conclusions of Law pursuant to Rule 52, F.R.Civ.P.

DATED: August 21, 1969.

ALBERT LEE STEPHENS, JR.
Albert Lee Stephens, Jr.
United States District Judge

